

ESTTA Tracking number: **ESTTA545126**

Filing date: **06/26/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Maria Clementine Martin Klosterfrau; Vertriebsgesellschaft mbH		
Entity	limited liability company	Citizenship	Germany
Address	Gereonsmuehlengasse 1/11 Koeln, 50670 GERMANY		

Attorney information	David C. Purdue Purdue Law Offices, LLC 2735 N. Holland-Sylvania Road; Suite B-2 Toledo, OH 43615 UNITED STATES dpurdue@purdue-law.com, kharper@purdue-law.com Phone:419-531-0599
----------------------	--

### Applicant Information

Application No	85582217	Publication date	05/28/2013
Opposition Filing Date	06/26/2013	Opposition Period Ends	06/27/2013
Applicant	Emmaus Medical, Inc. 20725 South Western Avenue #136 Torrance, CA 90501 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Dietary and nutritional supplements; pharmaceutical preparations for the treatment of cardiovascular, central nervous system, endocrine, gastrointestinal, genetic immunological, infectious, inflammatory, menopausal, metabolic, autoimmune, musculoskeletal, neurological, ophthalmological, psychiatric, respiratory, urogenital, urological and viral diseases and disorders; pharmaceutical preparations for the treatment of erectile dysfunction, sexual dysfunction, cancer, pain and diabetes; pharmaceutical preparations for use in hematology; pharmaceutical preparations, namely, antifungal preparations, dermatological preparations, smoking cessation preparations, and tissue repair preparations; vaccines for human use
--

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4270325	Application Date	11/21/2011
Registration Date	01/08/2013	Foreign Priority	06/16/2011

		Date	
Word Mark	NASIC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: Medicines for treating colds, namely, cold treatment preparations in the form of nasal sprays or nasal drops		

Attachments	00019030.PDF(81021 bytes ) 00019022.PDF(44879 bytes )
-------------	--

### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/David C. Purdue/
Name	David C. Purdue
Date	06/26/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/582,217

Published in the Official Gazette: May 28, 2013

**Maria Clementine Martin Klosterfrau  
Vertriebsgesellschaft mbH**

Opposer,

v.

**Emmaus Medical, Inc.**

Applicant

Mark: NOSIK

Opposition No.: \_\_\_\_\_

**NOTICE OF OPPOSITION**

Maria Clementine Martin Klosterfrau; Vertriebsgesellschaft mbH (Opposer), a Gesellschaft mit beschränkter Haftung (limited liability company) organized under the laws of Germany, having a principal place of business at Gereonsmühlengasse 1/11, 50670 Köln, GERMANY, will be damaged by registration of the mark shown in Application Serial No. 85/582,217 (Application) and hereby opposes the same. The grounds for opposition are as follows:

1. Emmaus Medical, Inc. (Applicant), a corporation of Delaware having a place of business at 20725 South Western Avenue #136, Torrance, California 90501 seeks to register the mark NOSIK for “Dietary and nutritional supplements; pharmaceutical preparations for the treatment of cardiovascular, central nervous system, endocrine, gastrointestinal, genetic immunological, infectious, inflammatory, menopausal, metabolic, autoimmune, musculoskeletal, neurological, ophthalmological, psychiatric, respiratory, urogenital, urological and viral diseases and

disorders; pharmaceutical preparations for the treatment of erectile dysfunction, sexual dysfunction, cancer, pain and diabetes; pharmaceutical preparations for use in hematology; pharmaceutical preparations, namely, antifungal preparations, dermatological preparations, smoking cessation preparations, and tissue repair preparations; vaccines for human use” in International Class 005 according to information published with the mark in the May 28, 2013 issue of the Official Gazette.

2. Applicant filed the Application on March 28, 2012 under §1(b). Applicant has no common law rights or statutory rights, prior to March 28, 2012, in NOSIK as a mark for the goods recited in the Applicant’s Application.

3. Opposer owns US Trademark Registration No. 4,270,325 (Registration) for the mark NASIC registered for “Medicines for treating colds, namely, cold treatment preparations in the form of nasal sprays or nasal drops” in International Class 005.

4. Opposer’s Registration was duly issued on January 8, 2013 and has a Section 67 priority date of June 16, 2011. A copy of the TESS record for Opposer’s Registration No. 4,270,325 is submitted herewith.

5. Applicant seeks to register the NOSIK mark for goods that are either closely related to or the same as the goods recited in Opposer’s Registration.

6. Applicant’s Application recites goods including “...pharmaceutical preparations for the treatment of ... infectious ... inflammatory ... respiratory ... and viral diseases and disorders...” and these are identical to goods for which Opposer’s mark is registered, namely, “Medicines for treating colds, namely, cold treatment preparations in the form of nasal sprays or nasal drops.”

7. Applicant’s mark NOSIK and Opposer’s mark NASIC each have five letters. Three of the five letters are the same and they appear in the same order and in the same position in the two marks. The marks both begin with the letter “N” and include the letter string “SI”. Opposer’s mark ends with the letter string “SIC” and Applicant’s mark ends with the letter string “SIK”.

“SIC” and “SIK” are phonetic equivalents. Applicant’s mark and Opposer’s mark have a vowel between the “N” and the “S”.

8. Applicant’s mark NOSIK begins with the letter string “NO” which means no.

9. Opposer’s mark NASIC begins with the letter string “NA” which means no. The word “no” is derived from the Old English nā. The web site freedictionary.com indicates that “nae” and “na” are Scot words for “NO”. “Nay” is a phonetic equivalent of “na” and “nay” means no.

10. Opposer’s mark NASIC and Applicant’s mark NOSIK are highly similar to each other in appearance, sound, connotation, and commercial impression.

11. Applicant’s mark NOSIK for the goods identified in its application so resembles Opposer’s mark NASIC for medicines for treating colds, namely, cold treatment preparations in the form of nasal sprays or nasal drops, that confusion is likely.

WHEREFORE, Opposer prays that the U.S. Patent and Trademark Office refuse registration of the mark shown in Application Serial No. 85/582,217 for the goods and services specified therein, and sustain this opposition in favor of Opposer.

This Notice of Opposition, and the fee of \$300 required by 37 CFR 2.6(a)(17) in connection with filing a Notice of Opposition for one class, are being submitted electronically.

Respectfully submitted,

/David C. Purdue/  
Attorney for Opposer  
Purdue Law Offices, LLC  
2735 N. Holland-Sylvania Road; Suite B-2  
Toledo, Ohio 43615  
(419) 531-0599  
Date: June 26, 2013

### **Certificate of Service**

I certify that on June 26, 2013 the foregoing Notice of Opposition was served on the Applicant's attorney of record via first-class mail in an envelope addressed as follows:

JEFFREY A. MCKINNEY  
MCKINNEY LAW GROUP  
851 MORAGA ROAD (Bungalow B)  
LAFAYETTE, CALIFORNIA 94549-5017

/David C. Purdue/  
Attorney for Opposer



## United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Jun 25 03:10:41 EDT 2013

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#) | [PREV LIST](#) | [CURR LIST](#) | [NEXT LIST](#)  
[FIRST DOC](#) | [PREV DOC](#) | [NEXT DOC](#) | [LAST DOC](#)[Logout](#)

Please logout when you are done to release system resources allocated for you.

[Start](#)List At: 

OR

[Jump](#)to record: **Record 1 out of 2**[TSDR](#)[ASSIGN Status](#)[TTAB Status](#)*( Use the "Back" button of the Internet Browser to return to TESS)***nasic****Word Mark****NASIC****Goods and Services**

IC 005. US 006 018 044 046 051 052. G &amp; S: Medicines for treating colds, namely, cold treatment preparations in the form of nasal sprays or nasal drops

**Standard Characters Claimed****Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Serial Number**

79108607

**Filing Date**

November 21, 2011

**Current Basis**

66A

**Original Filing Basis**

66A

**Published for Opposition**

October 23, 2012

**Registration Number**

4270325

**International****Registration Number**

1105325

**Registration Date**

January 8, 2013

**Owner**

(REGISTRANT) Maria Clementine Martin Klosterfrau; Vertriebsgesellschaft m.b.H. Gesellschaft mit beschränkter Haftung FED REP GERMANY Gereonsmühlengasse 1/11 50670 Köln FED REP GERMANY

**Attorney of Record**

David C. Purdue

**Priority Date**

June 16, 2011

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Live/Dead Indicator**

LIVE

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [TOP](#) | [HELP](#) | [PREV LIST](#) | [CURR LIST](#) | [NEXT LIST](#)

[FIRST DOC](#)

[PREV DOC](#)

[NEXT DOC](#)

[LAST DOC](#)

[HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)